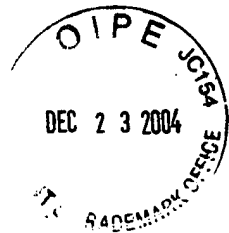


DAC



BEST AVAILABLE COPY

Docket No.: 20107/1200838-US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Earl Rotman et al.

Application No.: 10/709,329

Confirmation No.: 3328

Filed: April 28, 2004

Art Unit: 3628

For: SYSTEM AND METHOD FOR CREATING
TRADEABLE FINANCIAL UNITS

Examiner: N. B. Nguyen

12/28/2004 SFELEKE1 00000010 10709329

01-FC:1999 130.00 OP

PETITION FOR FILING DATE

MS Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The applicant in the above-identified patent application hereby petitions the United States Patent and Trademark Office to grant a filing date of April 28, 2004 to the above-identified patent application. A Notice to File Missing Parts Dated December 13, 2004 indicates that the application had been granted a filing date of July 15, 2004, the date upon which the USPTO received replacement drawings for this patent application. There are two grounds supporting this petition:

A. Drawings were in fact present in the application as filed;

B. To the extent that the method is concerned, drawings are not required for a complete description of the invention, and to the extent that apparatus claims are concerned, drawings were incorporated by reference in the provisional patent application of which the priority is claimed.

12/27/2004 SFELEKE1 00000023-10709329

01-FC:1622 130.00 OP

{W:\20107\1200838us1\00325963.DOC *201071200838US1* }

Adjustment dates: 12/28/2004 SFELEKE1
12/27/2004 SFELEKE1 00000023-10709329

01-FC:1622 130.00 OP

A. A Complete Set Of Drawings Was Present In This Patent Application As Filed

This patent application was filed electronically on April 28, 2004. Attached as Exhibit A is a true copy of the USPTO Acknowledge Receipt (3 pages) relating to this filing. The filing was done with IPDAS Version 3.2.1, which is authorized by the United States Patent and Trademark Office. I have reviewed the file list and have found it to be substantially the same as the file list of other electronically filed patent applications which contained all of the pages of the application, including the drawings.

Referring further to Exhibit A, it shows a filing date of April 28, 2004. There is no indication on the receipt that the filing process was ineffective in anyway. Moreover, the filing receipt contains a message (ISVR1) saying that the submission of successfully submitted and that it should not be resubmitted, even if warning messages appear, which they do not. Furthermore, there is message (WUTL2) indicating the absence of a declaration, but nothing referring to the drawings.

This patent application was filed from a dedicated computer. I have been informed that although we still have the hard disk drive from that computer, it is not accessible. However, at the time of filing the operator printed out a copy of each file used to generate the file that IPDAS sent to the USPTO. Exhibit B is a true copy of the printout of all the drawings files. The following figures are present: Figures 1-8. Thus, I am able to confirm that every figure was present among the files that were used by IPDAS to generate the file used for electronic filing. I am informed that it is impossible to view the contents of the ultimate file used for electronic filing.

Thus, I have confirmed that every figure was present among the files used by IPDAS to generate the file sent by IPDAS as the present patent application. Specifically, it is clear that all of the drawings were present at the time that IPDAS was activated to generate the file that was sent to the USPTO. IPDAS was authorized by the USPTO for that purpose. Accordingly, it is clear that drawings were present when an authorized program was used to file this patent application in the USPTO. It would not be possible to determine from the computer files, if they were available at Darby and Darby, what happened to the drawings once the USPTO authorized instrumentalities

were put into play. However, it is submitted that those drawings came into the possession of the USPTO when those instrumentalities were put into play.

It is therefore clear that the drawings were present in this patent application at the time it was filed and that this application should therefore be accorded a filing date equal to the date of electronic filing. The drawings comprising that application are those shown in Exhibit B.

B. As Far As The Method Invention Is Concerned Drawings Are Not Required And As Far As The Apparatus Invention Is Concerned They Were Present As Incorporated By Reference

1. Drawings Are Not Required For The Method Invention

It is a practice of the USPTO to treat an application that contains a process or method claim as an application for which a drawing is not necessary for understanding of the invention pursuant to 35 U.S.C. §113. MPEP Section 601.01(f) provides specifically that:

It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for understanding of the invention under 35 U.S.C. §113 (first sentence).

That section of the MPEP goes on to discuss the procedure for handling applications under these circumstances. However, there can be no doubt that drawings are not considered necessary when a method invention is concerned.

Furthermore, MPEP Section 601.01(g) states the following:

If the application is filed without all of the drawing figure(s) referred to in the specification and the application contains something that can be construed as a written description, at least one drawing, if necessary, under 35 U.S.C. §113 (first sentence), and...at least one claim, OIPE will mail a "Notice of Omitted Item(s)" indicating that the application papers so deposited *have been accorded a filing date...*(Emphasis Added)

As shown below, this application, as filed, contained at least one drawing, which was incorporated by reference from the provisional patent application of which the priority is claimed. Such incorporation by reference is provided for specifically in 37 C.F.R. §1.57.

Accordingly, this patent application should have been accorded a filing date equal to the electronic filing date, regardless of whether or not the electronically filed drawings are considered to be present. The presently accorded filing date is in error.

2. As Far As The Apparatus Of The Invention Is Concerned,
Drawings Were Incorporated By Reference

This patent application claims the benefit of the filing date of U.S. Provisional Patent Application No. 60/539,526 filed January 26, 2004. Pursuant to 37 C.F.R. §1.57(a), under these circumstances, this section of 37 C.F.R. provides that:

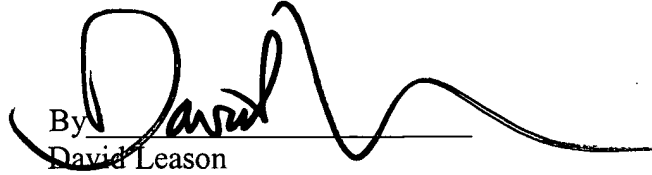
If any portion of the specification or drawings is inadvertently omitted from an application, but was present in the prior filed provisional application on its filing date, those portions shall be considered to be incorporated by reference from the prior application as to the inadvertently omitted portions.

Thus, the drawings present in the provisional application which describe the apparatus aspect of the invention were present in the present application as filed.

For all of the above reasons, it was an error not to accord the present patent application a filing date of April 28, 2004 and, accordingly, it is respectfully requested that this application be accorded that filing date.

Dated: December 22, 2004

Respectfully submitted,

By 
David Leason

Registration No.: 36,195
DARBY & DARBY P.C.
P.O. Box 5257
New York, New York 10150-5257
(212) 527-7700
(212) 753-6237 (Fax)
Attorneys/Agents For Applicant

**UNITED STATES PATENT AND TRADEMARK OFFICE
ACKNOWLEDGEMENT RECEIPT**

Electronic Version

Stylesheet Version v1.1.1

**Title of
Invention****SYSTEM AND METHOD FOR CREATING TRADEABLE FINANCIAL
UNITS**

Submission Type: Utility Patent Filing

Application Number: 10/709329

10/709329

EFS ID: 60030

Server Response:

Confirmation Code	Message
ISVR1	Submission was successfully submitted - Even if Informational or Warning Messages appear below, please do not resubmit this application
ICON1	3328
WUTL2	Filename= 201071200838US1-pkda.xml BusinessRule= The utility patent submission does not include at least one declaration.

First Named Applicant: Earl Rotman

Attorney Docket Number: 20107/1200838-US1

Timestamp: 2004-04-28 17:46:01 EDT

From: us

File Listing:

Doc. Name	File Name	Size (Bytes)
application-body	201071200838US1-usappb.xml	66757
application-body	application-body.dtd	49498
application-body	us-application-body.xsl	83497
application-body	mathml2.dtd	54588
application-body	soextblx.dtd	12870
application-body	isoamsa.ent	5191
application-body	isoamsb.ent	3988
application-body	isoamsc.ent	1460
application-body	isoamsn.ent	5620
application-body	isoamso.ent	1934
application-body	isoamsr.ent	7073

application-body	isobox.ent	3568
application-body	isocyr1.ent	5345
application-body	isocyr2.ent	2504
application-body	isodia.ent	1508
application-body	isogr1.ent	4030
application-body	isogr2.ent	2259
application-body	isogr3.ent	3559
application-body	isogr4.ent	1920
application-body	isolat1.ent	5282
application-body	isolat2.ent	9007
application-body	isomfrk.ent	4553
application-body	isomopf.ent	2571
application-body	isomscr.ent	4628
application-body	isonum.ent	5913
application-body	isopub.ent	6621
application-body	isotech.ent	5268
application-body	mathml2-qname-1.mod	13225
application-body	mmlalias.ent	38209
application-body	mmlextra.ent	7901
application-body	wipo.ent	4956
us-power-of-attorney-grant	201071200838US1-uspoat-O000001.tif	60032
us-power-of-attorney-grant	201071200838US1-uspoat-O000002.tif	53438
us-power-of-attorney-grant	201071200838US1-uspoat-O000003.tif	41506
us-power-of-attorney-grant	201071200838US1-uspoat-O000004.tif	40664
us-power-of-attorney-grant	201071200838US1-uspoat-O000005.tif	62322
us-power-of-attorney-grant	201071200838US1-uspoat-O000006.tif	55394
us-power-of-attorney-grant	201071200838US1-uspoat-O000007.tif	42082
us-power-of-attorney-grant	201071200838US1-uspoat-O000008.tif	38520
us-power-of-attorney-grant	201071200838US1-uspoat-O000009.tif	50058

us-power-of-attorney-grant	201071200838US1-uspoat-O000010.tif	45806
us-power-of-attorney-grant	201071200838US1-uspoat-O000011.tif	35422
us-power-of-attorney-grant	201071200838US1-uspoat-O000012.tif	32046
us-request	201071200838US1-usrequ.xml	3483
us-request	us-request.dtd	19064
us-request	us-request.xsl	33300
us-assignment	201071200838US1-usassn.xml	2379
us-assignment	us-assignment.dtd	10898
us-assignment	us-assignment.xsl	8983
us-assignment	201071200838US1-usassn-A000001.tif	49056
us-assignment	201071200838US1-usassn-A000002.tif	54872
us-assignment	201071200838US1-usassn-A000003.tif	44272
us-assignment	201071200838US1-usassn-A000004.tif	45502
us-fee-sheet	201071200838US1-usfees.xml	1732
us-fee-sheet	us-fee-sheet.dtd	11069
us-fee-sheet	us-fee-sheet.xsl	24912
package-data	201071200838US1-pkda.xml	11053
package-data	package-data.dtd	27025
package-data	us-package-data.xsl	19263
Total files size		1349456

Message Digest: bd1a8c457ed7b60550de825087360a02ea1bd8b1
 Digital Certificate Holder Name: cn=Marie Louise Collazo,ou=Registered Attorneys,ou=Patent and Trademark Office,ou=Department of Commerce,o=U.S. Government,c=US

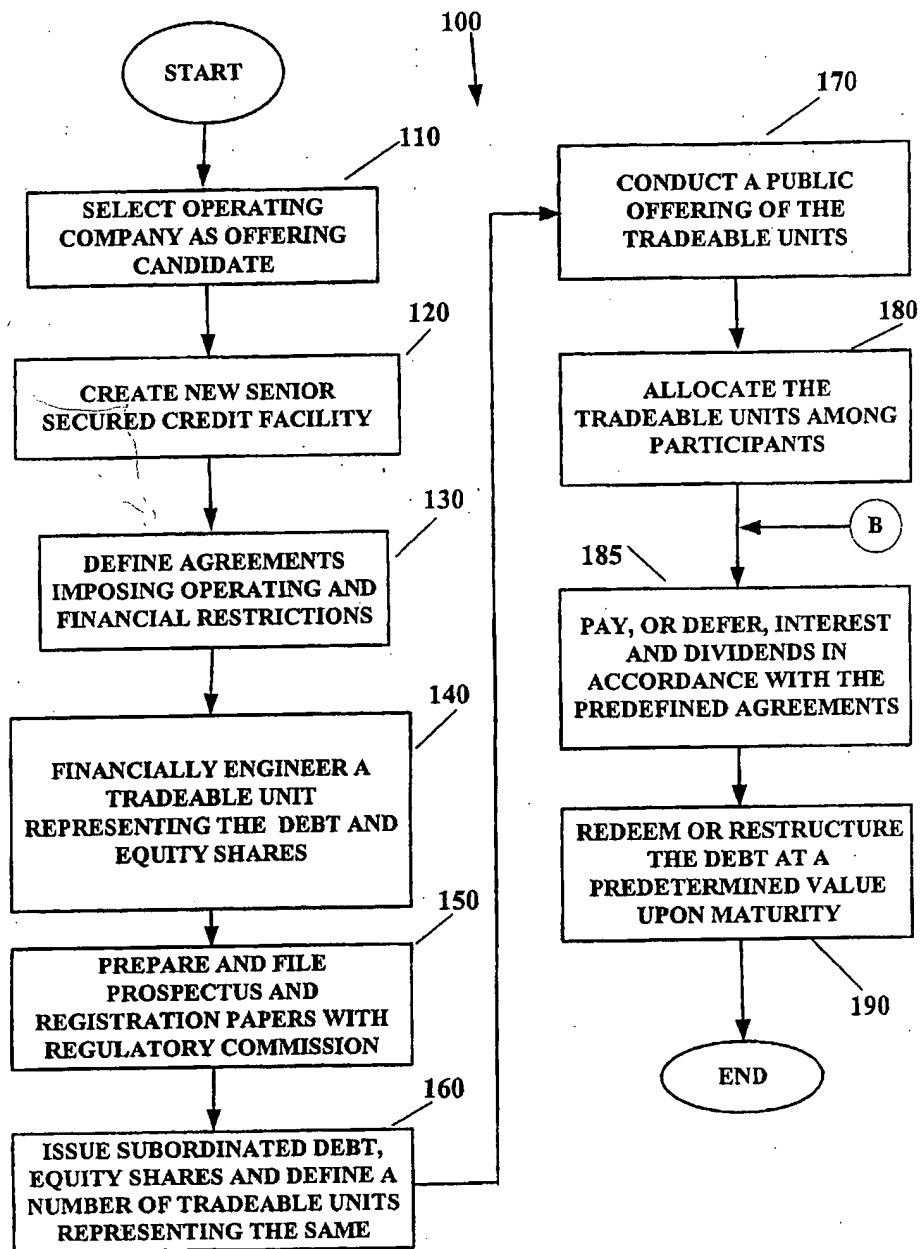


FIGURE 1

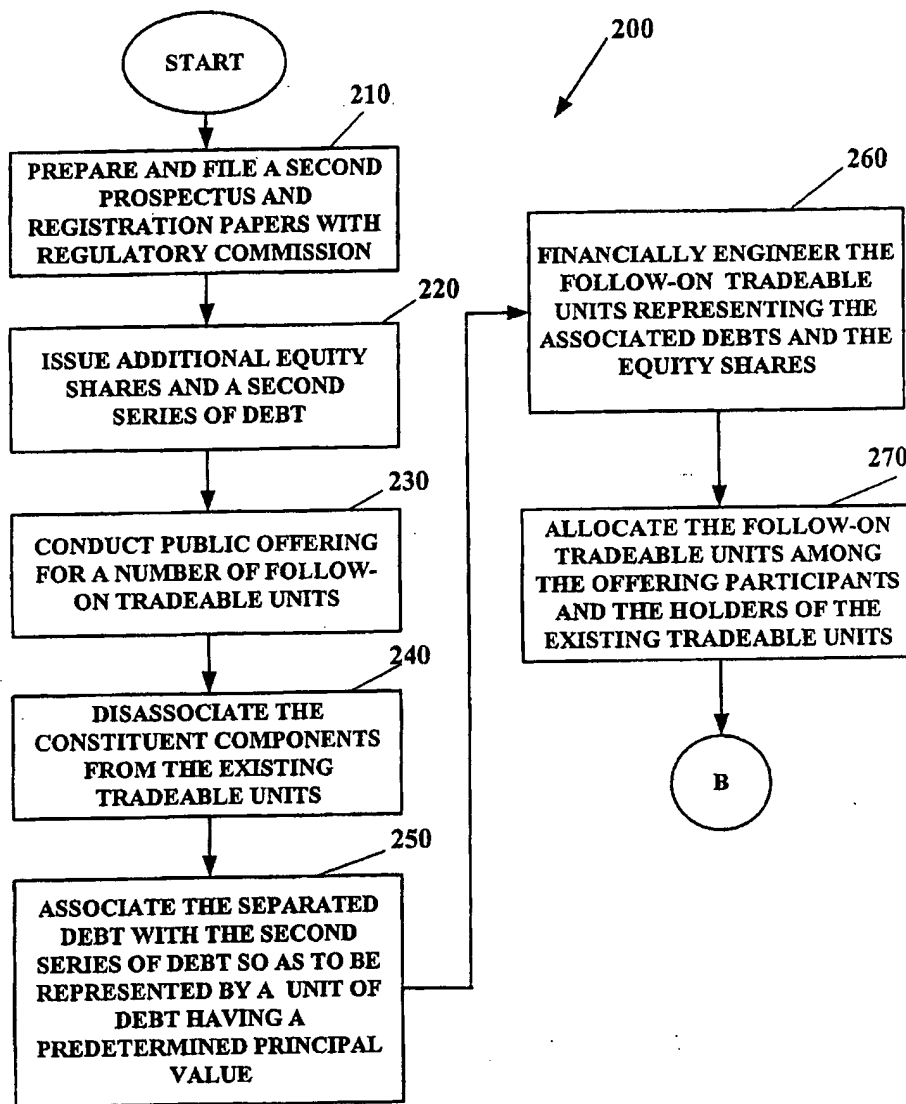


FIGURE 2

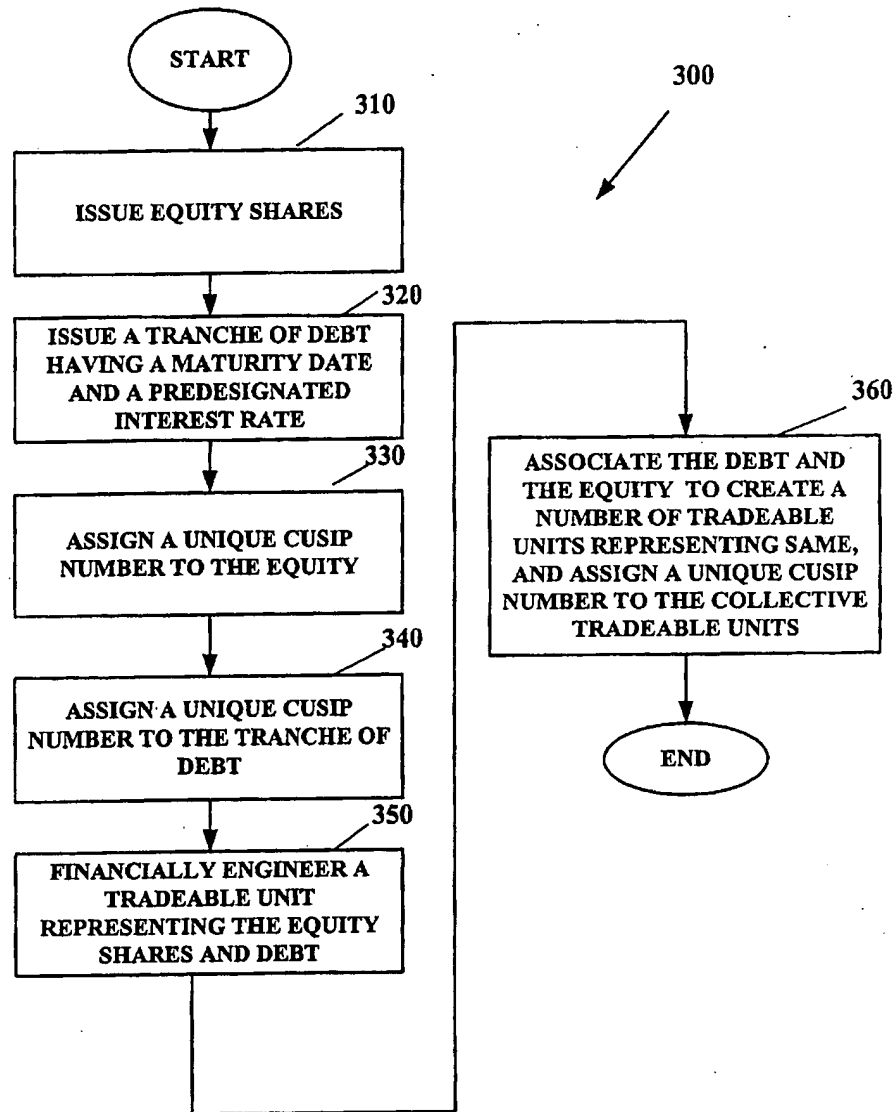


FIGURE 3

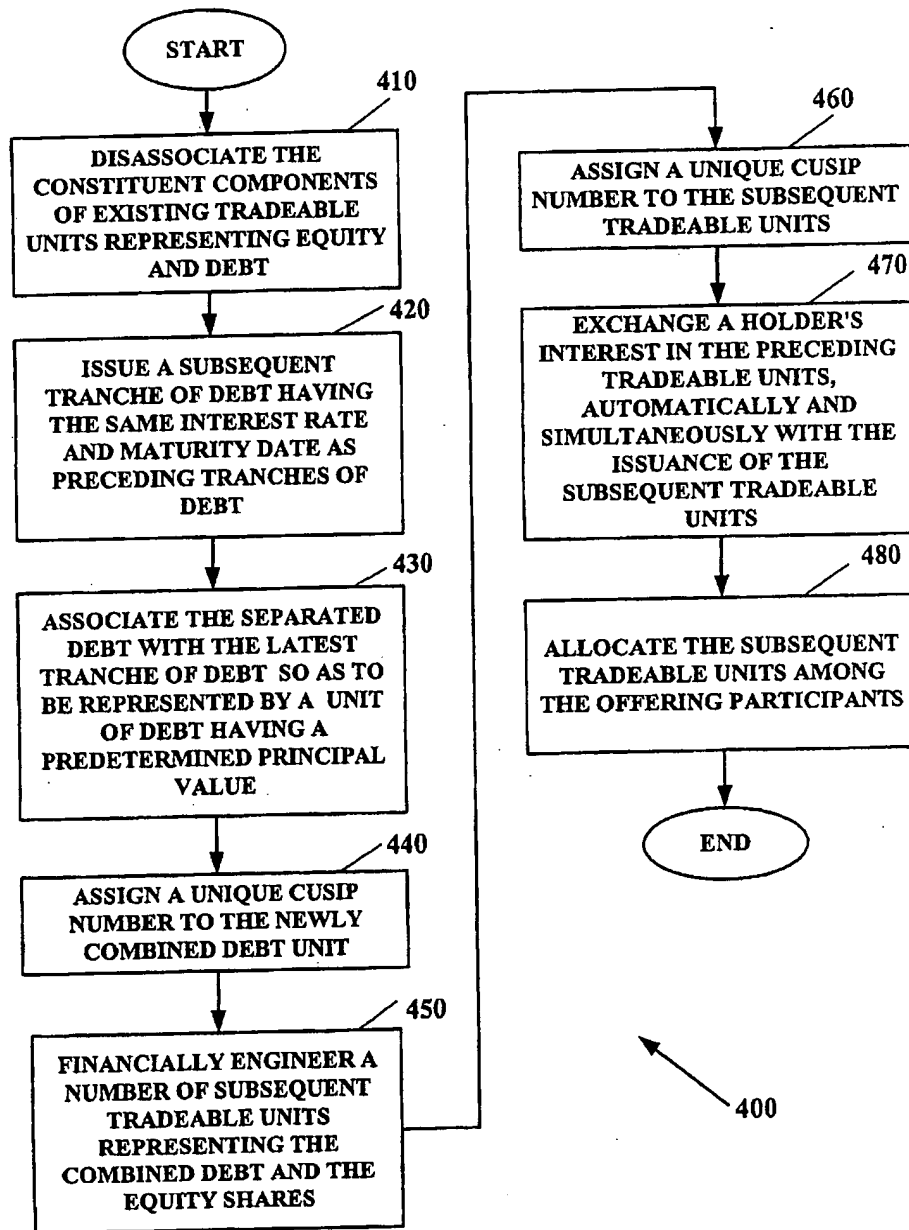


FIGURE 4

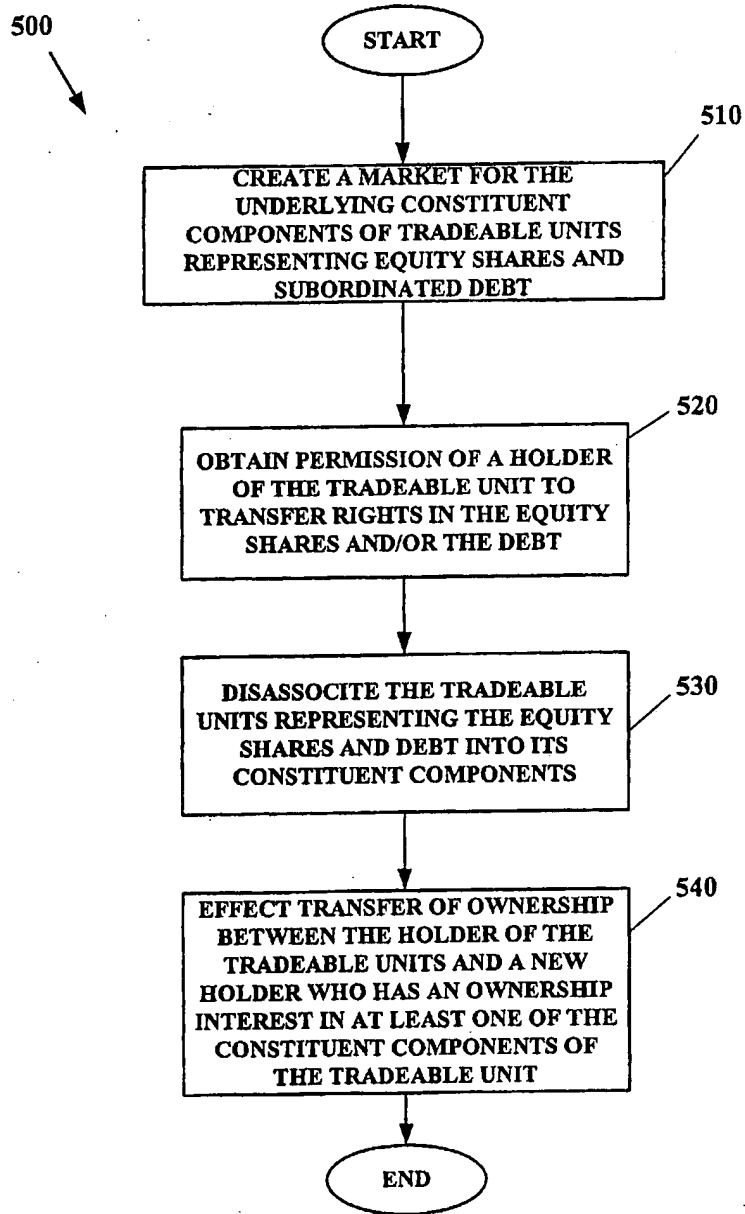


FIGURE 5

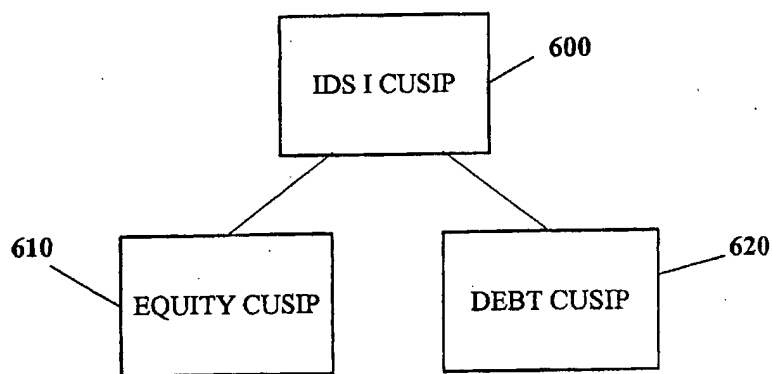


FIGURE 6

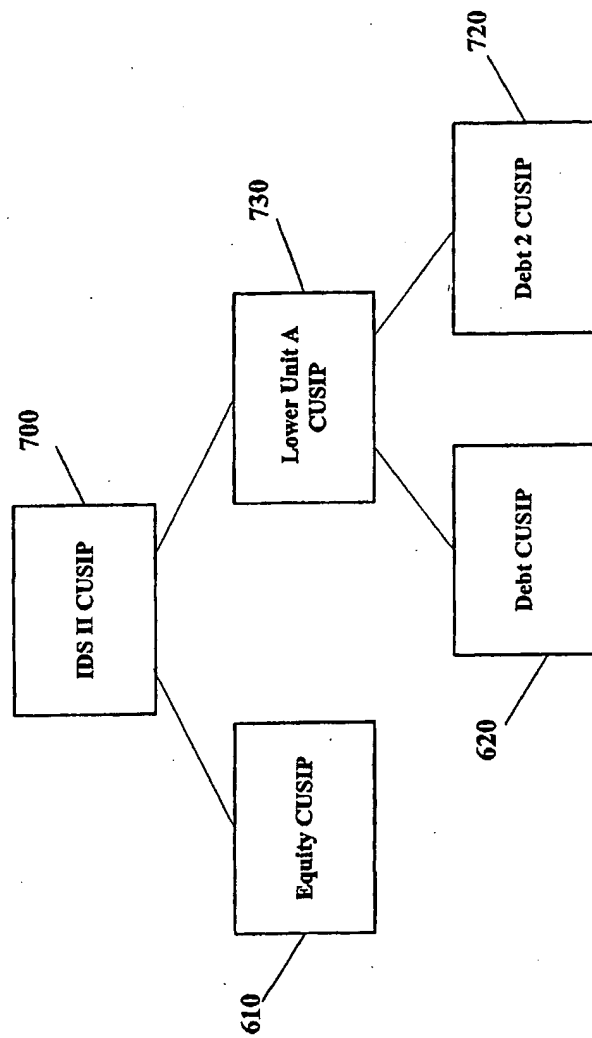


FIGURE 7

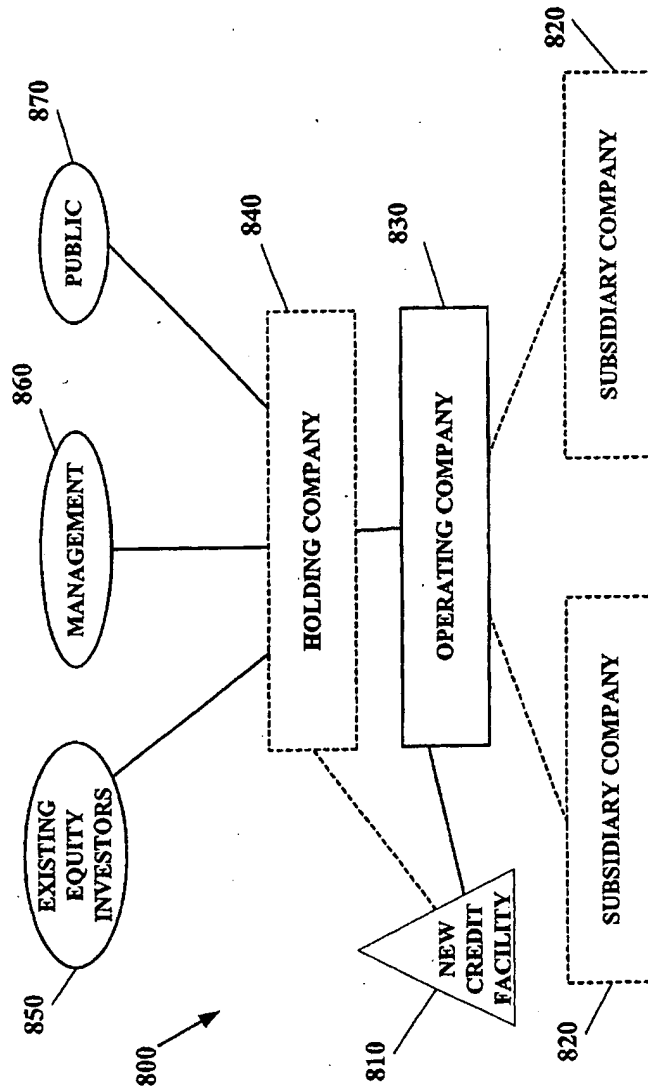


FIGURE 8

**This Page is Inserted by IFW Indexing and Scanning
Operations and is not part of the Official Record**

BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

- ☐ **BLACK BORDERS**
- ☐ **IMAGE CUT OFF AT TOP, BOTTOM OR SIDES**
- ☐ **FADED TEXT OR DRAWING**
- ☐ **BLURRED OR ILLEGIBLE TEXT OR DRAWING**
- ☐ **SKEWED/SLANTED IMAGES**
- ☐ **COLOR OR BLACK AND WHITE PHOTOGRAPHS**
- ☐ **GRAY SCALE DOCUMENTS**
- ☐ **LINES OR MARKS ON ORIGINAL DOCUMENT**
- ☐ **REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY**
- ☐ **OTHER:** _____

IMAGES ARE BEST AVAILABLE COPY.

As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.